

STATE OF WISCONSIN Division of Hearings and Appeals

In the Matter of

DECISION

SSP/163928

PRELIMINARY RECITALS

Pursuant to a petition filed February 09, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to State Supplemental SSI benefits, a hearing was held on March 05, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the Department of Health Services, Division of Health Care Access and Accountability (DHS) correctly ended the Petitioner's <u>state</u> Supplement Security Income (SSI) benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services 1 West Wilson Street, Room 651 Madison, Wisconsin 53703

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner is a resident of Kenosha County.
- 2. Petitioner's Federal Supplemental Security Income ended in January 2015. (Exhibit 2; testimony of Petitioner's father)

- 3. On January 19, 2015, the Department of Health Services, Division of Health Care Access and Accountability (DHS) sent the Petitioner, in care of his father, a notice, indicating that his State Supplemental Security Benefits would also be ending. (Exhibit 2)
- 4. The Petitioner's father filed a request for fair hearing that was received by the Division of Hearings and Appeals on February 9, 2015. (Exhibit 1)

DISCUSSION

In order to receive *state* Supplemental Security Income (SSI) benefits, a person must be receiving *federal* SSI benefits. *Wisconsin SSI Handbook §2.1.1;* Wis. Stat § 49.77(2)(a)2. See also, 20 C.F.R. § 416.2025(b)(4).

It is undisputed that the Social Security Administration ended the Petitioner's *federal* SSI benefits in January 2015. Because the Petitioner's *federal* SSI benefits were cut off, he stopped being eligible for *state* SSI benefits. Thus, pursuant to Wis. Stat § 49.77(2)(a)2 and 20 C.F.R. § 416.2025(b)(4), DHS correctly ended the Petitioner's *state* SSI benefits.

Petitioner's father testified that it was heartless and unfair of DHS to cut off his son's cash benefits. However, until the Social Security Administration reinstates the Petitioner's *federal* benefits, there is nothing that can be done about the Petitioner's *state* benefits.

If an appeal has been filed with Social Security Administration and the recipient is determined eligible and placed in a pay status, the *state* SSI program will receive the information from SSA and the benefits will be reinstated accordingly. Petitioner's father is once again advised to contact the Social Security Office to appeal the termination of Petitioner's *federal* SSI payments, if he believes that the Petitioner should be eligible for these benefits.

CONCLUSIONS OF LAW

DHS correctly ended the Petitioner's *state* SSI benefits pursuant to *Wisconsin SSI Handbook §2.1.1;* Wis. Stat § 49.77(2)(a)2 and 20 C.F.R. § 416.2025(b)(4).

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received** within 20 days after the date of this decision. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee, Wisconsin, this 9th day of March, 2015.

\sMayumi M. Ishii Administrative Law Judge Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator Suite 201 5005 University Avenue Madison, WI 53705-5400 Telephone: (608) 266-3096 FAX: (608) 264-9885 email: DHAmail@wisconsin.gov Internet: http://dha.state.wi.us

The preceding decision was sent to the following parties on March 9, 2015.

Division of Health Care Access and Accountability State SSI